



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 13, 1994

Mr. Douglas A. Poneck
Law Offices of Escamilla & Poneck
1200 South Texas Building
603 Navarro
San Antonio, Texas 78205-1826

OR94-008

Dear Mr. Poneck:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code (formerly V.T.C.S. article 6252-17a).¹ Your request was assigned ID# 23711.

The Edgewood Independent School District (the "district"), which you represent, received an open records request for the following records:

1. The minutes of the board meeting during which Edgewood Independent School District trustees approved electrical work at Burleson, Perales, and Hoelscher elementary schools.
2. All bids for electrical work at Burleson, Perales, and Hoelscher elementary schools.
3. Canceled checks paid to the contractor who performed electrical work at Burleson, Perales, and Hoelscher elementary schools.
4. The work order describing the exact nature and scope of the work at those schools and the dates during which the work was performed.

¹The Seventy-third Legislature repealed article 6252-17a, V.T.C.S. Acts 1993, 73d Leg., ch. 268, § 46, at 988. The Open Records Act is now codified in the Government Code at chapter 552. *Id.* § 1. The codification of the Open Records Act in the Government Code is a nonsubstantive revision. *Id.* § 47.

You contend that the district may withhold the requested information for a variety of reasons. You have failed, however, to submit to this office for review copies of the records that the requestor seeks.² In correspondence dated December 28, 1993, to your office, this office specifically asked that you submit to us copies of the requested information with the caveat that your failure to do so would result in the district's waiver of the act's discretionary exceptions. See Open Records Decision No. 197 (1978) at 1-2 (stating that governmental body's refusal to submit copies of requested information results in presumption that information is public). Because you have not submitted copies of the requested information, the information is public; the district therefore must release these records at this time.³

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kymerly K. Oltrogge
Assistant Attorney General
Open Government Section

KKO/RWP/rho

Ref.: ID# 23711
ID# 23733
ID# 23972
ID# 23981
ID# 24017

Enclosures: Submitted documents

²Although you have submitted copies of other records to this office, these records clearly do not come within the ambit of the open records request. Accordingly, we need not determine at this time whether the records you have submitted are subject to required public disclosure.

³This office recognizes that the distribution of confidential information constitutes a criminal offense. See Gov't Code § 552.352. However, even if this office were to interpret your request as one invoking a "mandatory" exception such as section 552.101 of the Government Code, which protects information deemed confidential by law, we would have no basis for determining the applicability of that exception in light of your failure to submit copies of the requested records.

cc: Mr. Keefe Borden
Reporter
San Antonio Express-News
Avenue E & Third Street
San Antonio, Texas 78297
(w/o enclosures)